



Express Mail Label No. EV 957632503 US Dated: January 28, 2008

Docket No.: BIZ-045CPCN  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Kun Ping Lu *et al.*

Application No.: 10/683,880

Confirmation No.: 7888

Filed: **October 9, 2003**

Art Unit: 1643

For: PIN1 AS A MARKER FOR ABNORMAL  
CELL GROWTH

Examiner: C. H. Yaen

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT**  
**UNDER 37 C.F.R. 1.181(a)**

Dear Sir:

Applicants' Attorney hereby petitions the Commissioner under 37 C.F.R. 1.181(a) to withdraw the holding of abandonment in the above-identified application.

As indicated in the Notice of Abandonment dated January 3, 2008 (a copy of which is enclosed as Appendix A), the above-referenced application was abandoned based on Applicants' "failure to timely file a proper reply to the Office letter mailed on 20 June 2007." However, Applicants filed a Notice of Appeal on December 20, 2007 with the appropriate request for extension and payment of the requisite fee. Therefore, the holding of abandonment is improper.

A brief summary of the facts are as follows:

Applicants filed a Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences on December 20, 2007 in response to the final Office Action dated June 20, 2007 which finally rejected claims 10, 11, 16 and 91-95. A copy of the papers filed with the Office is attached as Appendix B. Applicants received the date-stamped postcard,

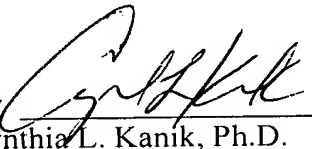
which is attached as Appendix C, indicating receipt by the Office. Applicants then received a Notice of Abandonment on January 3, 2008.

Accordingly, Applicants hereby request withdrawal of the holding of abandonment based on the aforementioned evidence that a Notice of Appeal was timely mailed.

If the Commissioner desires to communicate with Applicant's Attorney over the phone, or requires any further documentation in support of the present petition, Applicant's Attorney can be reached at 617-227-7400.

Dated: January 28, 2008

Respectfully submitted,

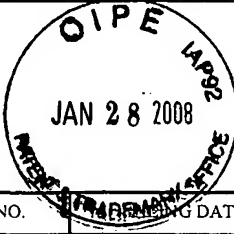
By   
Cynthia L. Kanik, Ph.D.  
Registration No.: 37,320  
LAHIVE & COCKFIELD, LLP  
One Post Office Square  
Boston, Massachusetts 02109-2127  
(617) 227-7400  
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Attorney/Agent For Applicant



## APPENDIX A

## UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/683,880

10/09/2003

Kun Ping Lu

BIZ-045CPCN

7888

959 7590 01/03/2008  
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ONE POST OFFICE SQUARE  
BOSTON, MA 02109-2127

EXAMINER

YAEN, CHRISTOPHER H

ART UNIT

PAPER NUMBER

1643

MAIL DATE

DELIVERY MODE

01/03/2008

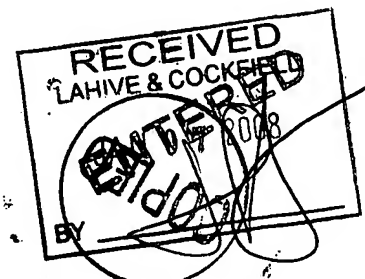
PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**DOCKETED**

Jan 17, 2008 file Petition to Revive 2 week rem.  
Feb 3, 2008 file Petition to revive  
(Notice of Appeal filed 12/20/07)





# **Notice of Abandonment**

Application No.

10/683,880

Examiner

Christopher H. Yaen

Applicant(s)

LU ET AL.

Art Unit

1643

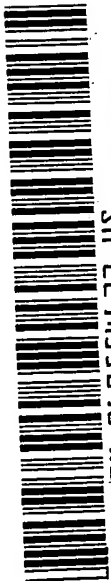
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 June 2007.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/christopher yaen/  
Primary Examiner  
Art Unit 1643

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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WARRANTY

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